

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of ALISSA EMANUEL and  
CHANCE SKYLER EMANUEL, Minors.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

CYNTHIA MILLS,

Respondent-Appellant,

and

HARLON EMANUEL,

Respondent.

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UNPUBLISHED

September 29, 2005

No. 260465

Berrien Circuit Court

Family Division

LC No. 2004-000047-NA

Before: Saad, P.J., and Jansen and Markey, JJ.

MEMORANDUM.

Respondent Cynthia Mills appeals as of right from the order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(a)(ii), (c)(i), and (g). We affirm.

We review for clear error the trial court's determination that petitioner established the existence of one or more statutory grounds for termination by clear and convincing evidence. MCR 3.977(J); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999).

Respondent argues that the trial court placed an overly stringent requirement upon her when it required her to provide a negative drug screen the mornings of her scheduled parenting time. Respondent contends that, given her severe problem with drug abuse, such a requirement effectively precluded her from attending visitations with her children and that it would have been better for the trial court to have required her not to be under the influence of drugs before her visitations, rather than drug-free. Respondent's argument ignores the clear language of MCL 712A.19b(3)(a)(ii), which does not limit its review to a parent's record of visitations but, instead, evaluates a parent's general attempts to seek custody. In its bench opinion, the trial court looked not just to the missed visitations, but also respondent's other lack of contact with the FIA and/or the children. Furthermore, the trial court's requirement that respondent test negative before

visitations was very reasonable, especially in light of the evidence that respondent had a serious drug problem.

Respondent concedes that the conditions in issue obtained at the time of the termination trial and that she had failed to provide proper care of the children in the past within the meanings of MCL 712A.19b(3)(c)(i) and (g). Yet, she claims that, since she had just recently stopped using drugs, there was a reasonable likelihood that she would be able to benefit from services, fix her problems, and provide appropriate care, all within a reasonable time. However, the evidence showed that respondent had been free from drugs for just over one month after a drying-out period spent in jail. There was no evidence of respondent's ability to benefit from services because she always failed to avail herself of these services. Therefore, the trial court did not err in basing termination upon these statutory grounds.

Finally, a review of the whole record shows that respondent subjected the minor children to a home environment in which drug use was prevalent, domestic violence was all too common, and educational neglect was ongoing. The trial court did not clearly err in finding that termination of respondent's parental rights was not contrary to the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 353-354; 612 NW2d 407 (2000).

Affirmed.

/s/ Henry William Saad

/s/ Kathleen Jansen

/s/ Jane E. Markey